

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Lockheed Martin Corporation
Clarksburg, Maryland

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File No. EB-06-SE-317
NAL/Acct. No. 200732100015
FRN: 0014357743

ORDER

Adopted: March 31, 2008

Released: April 2, 2008

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau ("Bureau") and Lockheed Martin Corporation ("Lockheed Martin"). The Consent Decree terminates the Bureau's enforcement proceeding relating to Lockheed Martin's compliance with Section 301 of the Communications Act of 1934, as amended ("Act"),¹ and Section 25.102(a) of the Commission's Rules ("Rules").²

2. The Enforcement Bureau and Lockheed Martin have negotiated the terms of a Consent Decree that would resolve these matters and terminate the enforcement proceeding. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist with respect to this matter as to whether Lockheed Martin possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest would be served by adopting the Consent Decree and terminating the enforcement proceeding.

5. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i) and 503(b) of the Act,³ and the authority delegated by Sections 0.111 and 0.311 of Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned enforcement proceeding **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that Lockheed Martin Corporation shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument payable to the order of the Federal Communications Commission, to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 25.102(a).

³ 47 U.S.C. §§ 154(i) and 503(b).

⁴ 47 C.F.R. §§ 0.111 and 0.311.

TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Lockheed Martin Corporation, Attn: Jennifer A. Warren, Senior Director, Trade and Regulatory Affairs, 1550 Crystal Drive, Suite 300, Arlington, VA 22202.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

CONSENT DECREE**I. INTRODUCTION**

1. The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and Lockheed Martin Corporation (“Lockheed Martin”) hereby enter into this Consent Decree for the purpose of terminating an enforcement proceeding relating to whether Lockheed Martin violated Section 301 of the Communications Act of 1934, as amended (“Act”),⁵ and Section 25.102(a) of the Commission’s Rules (“Rules”),⁶ by operating its satellite earth station at Clarksburg, Maryland, call sign E970322 (“earth station E970322”), without Commission authorization following the expiration of a special temporary authorization, and the Bureau’s investigation relating to whether Lockheed Martin violated Section 301 of the Act and Section 25.102(a) of the Rules by operating earth station E970322 at variance from the terms of its authorization.

II. DEFINITIONS

2. For the purposes of this Consent Decree the following definitions apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq.*;
 - (b) “Adopting Order” means an order of the Bureau adopting the terms and conditions of this Consent Decree;
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
 - (d) “Commission” or “FCC” means the Federal Communications Commission;
 - (e) “Effective Date” means the date on which the Bureau releases the Adopting Order;
 - (f) “Enforcement Proceeding” means the investigation of possible violations of Section 301 of the Act and Section 25.102(a) of the Rules by Lockheed Martin undertaken by the Bureau and culminating in the *Notice of Apparent Liability for Forfeiture*;
 - (g) “Investigation” means the Bureau’s investigation into possible violations of Section 301 of the Act and Section 25.102(a) of the Rules by Lockheed Martin referred by the International Bureau on May 2, 2007;
 - (h) “Lockheed Martin” means Lockheed Martin Corporation and its parent, subsidiaries, divisions and affiliates, and each of their respective officers, directors, employees, agents, representatives, or any other person acting or purporting to act on behalf of Lockheed Martin or their successors or assigns;
 - (i) “*Notice of Apparent Liability for Forfeiture*” or “NAL” means *Lockheed Martin Corporation*, 22 FCC Rcd 4116 (Enf. Bur., Spectrum Enf. Div., 2007);
 - (j) “Parties” means Lockheed Martin and the Bureau; and

⁵ 47 U.S.C. § 301.

⁶ 47 C.F.R. § 25.102(a).

- (k) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal Regulations.

III. BACKGROUND

3. Section 301 of the Act prohibits a person from using or operating any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with the Act and with a license granted in accordance with the Act. Similarly, under Section 25.102(a) of the Rules, no person may use or operate any apparatus for the transmission of energy or communications or signals by space or earth stations except under, and in accordance with, an appropriate authorization granted by the Commission.

4. Lockheed Martin filed a Request for Special Temporary Authority (“STA”) with the Commission on January 20, 2006 to operate its earth station E970322, with the Inmarsat-3 (F4) satellite located at 54° W.L. during the westward drift of the satellite to a new location at 142° W.L. pending grant of Lockheed Martin’s then to-be-filed modification of license application to include the Inmarsat-3 satellite at 142° W.L. as a point of communication.⁷ The International Bureau granted Lockheed Martin’s STA request on February 1, 2006 for sixty days to be effective from February 3, 2006 through April 3, 2006.⁸ A request to extend the STA was not filed by April 3, and the STA expired. On June 8, 2006, upon recognizing that the STA had not been renewed, Lockheed Martin requested an extension of the initial STA and also sought to have the extended STA made effective from April 3, 2006. On July 3, 2006, the International Bureau granted Lockheed Martin’s second STA request, to be effective from June 18, 2006 through October 18, 2006.⁹

5. Because it appeared that Lockheed Martin may have operated the earth station without authority for the Inmarsat-3 (F4) satellite at its new location from April 4, 2006 through June 7, 2006 after the expiration of its STA, the FCC’s International Bureau referred this case to the Bureau for investigation and possible enforcement action. On October 11, 2006, the Bureau’s Spectrum Enforcement Division issued a letter of inquiry (“LOI”) to Lockheed Martin.¹⁰ Lockheed Martin responded to the LOI on November 13, 2006.¹¹ The Bureau issued an *NAL* on March 2, 2007, finding Lockheed Martin apparently liable for a forfeiture in the amount of \$8,000.

6. Additionally, Lockheed Martin reported to the International Bureau in December 2006 that there was a discrepancy between the authorized transmit frequency for earth station E970322 and the frequency on which the earth station was actually transmitting. Specifically, the earth station had been

⁷ Lockheed Martin’s license for earth station E970322 authorized the Inmarsat-3 (F4) satellite as a point of communication, but the limits of the frequency coordination did not extend sufficiently far west as to encompass operation of the satellite at its new 142° W.L. orbital location. Lockheed Martin filed an application for license modification for earth station E970322 to specify operation with the Inmarsat-3 (F4) satellite at its new location, on June 15, 2006. *See* File No. SES-MFS-2006-0615-01010. The application was accepted for filing on August 9, 2006.

⁸ *See* File No. SES-STA-20060120-00074 (granted February 1, 2006).

⁹ *See* File No. SES-STA-20060608-00950 (granted July 3, 2006).

¹⁰ Letter from Kathryn S. Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Lockheed Martin Corporation (October 11, 2006).

¹¹ *See* Letter from Lockheed Martin Corporation to Kathryn S. Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (November 13, 2006) (“LOI Response”).

operating since 1997 at 6455.42 MHz, rather than its authorized frequency of 6455.5 MHz.¹² Lockheed Martin disclosed this discrepancy in its December 13, 2006 amendment to the then-pending application to modify the license of earth station E970322.¹³ On May 2, 2007, the International Bureau referred this matter to the Bureau for investigation and possible enforcement action.

7. The modification of license application was subsequently dismissed for unrelated reasons, and Lockheed Martin continued to operate earth station E970322, pursuant to extensions of the STA sought on June 8, 2006, until the earth station ceased operation in July 2007. On August 15, 2007, Lockheed Martin surrendered the earth station license.

IV. TERMS OF SETTLEMENT

8. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

9. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination of any compliance or noncompliance by Lockheed Martin with the Act or the Commission's Rules and orders. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to the Consent Decree, Lockheed Martin does not admit or deny any liability for violating the Act or the Rules in connection with the matters that are the subject of this Consent Decree.

10. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. The Parties acknowledge and agree that this Consent Decree shall constitute a final and binding settlement between Lockheed Martin and the Bureau regarding possible violations of the Act and the Rules with respect to the operation of earth station E970322 facilities prior to the Effective Date of this Consent Decree. In express reliance on the covenants and representations contained herein, and in order to avoid the potential expenditure of additional public resources, the Bureau agrees to terminate the Enforcement Proceeding and Investigation and cancel the NAL.

¹² In its 1997 application for authority to operate earth station E970322, COMSAT Corporation ("COMSAT"), then an entity unaffiliated with Lockheed Martin, specified 6455.5 MHz as the transmit frequency. *See* File No. SES-LIC-19970520-00657. When COMSAT commenced operation of earth station E970322 in 1997 under pre-grant STA, however, it began operating the station at 6455.42 MHz. In 2000, COMSAT and Lockheed Martin completed a Commission-approved merger, and Lockheed Martin was substituted for COMSAT as the applicant for the earth station in July 2001. When the license for earth station E970322 was granted approximately two months later, it specified a transmit frequency of 6455.5 MHz.

¹³ *See* File No. SES-AMD-20061213-02137, at Ex. 43. Lockheed Martin determined that the transmission bandwidth, however, was not 2.2 MHz, but instead was 2.046 MHz (which corresponds to the +/- 1.023 MHz chipping rate of the Global Positioning System downlink signal that is centered on 1575.42 MHz in the radionavigation-satellite service. Thus, the transmission bandwidth from the earth station was 6454.397-6456.443 MHz, and there was a 3 kHz discrepancy (6454.397 MHz actual vs. the 6454.4 MHz authorized) on the lower end of the uplink band, while the upper limit (6456.443 MHz) was 157 kHz below (i.e., within) the authorized band and its upper frequency limit of 6456.6 MHz.

12. In consideration for termination of the Enforcement Proceeding and Investigation and cancellation of the NAL by the Bureau, and in accordance with the terms of this Consent Decree, Lockheed Martin agrees to the terms set forth herein.

13. Lockheed Martin acknowledges that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

14. Lockheed Martin agrees that, as of the Effective Date of this Consent Decree, it will fully comply with the Rules concerning the licensing and operation of earth station facilities and all other applicable provisions of the Act and the Rules with respect to its satellite earth station facilities. Consistent with this commitment:

- a. Lockheed Martin has revised its procedures to ensure that filing deadlines and expiration dates for all earth station facilities Lockheed Martin uses to provide radionavigation-satellite services (regularly licensed facilities as well as those operated pursuant to STAs) are recorded on a matrix that is updated as necessary and maintained by both Lockheed Martin and outside counsel;
- b. Lockheed Martin has taken steps to ensure that: (i) its satellite earth station facilities are operated consistent with the licenses granted by the FCC (and applicable FCC rules and policies), and (ii) when plans for changes to its satellite earth station facilities are finalized, Lockheed Martin will promptly determine whether its current earth station licenses permit the proposed changes or whether an application for new or modified authority, or a notification of the changes, must be submitted to the FCC; and
- c. Lockheed Martin has designated its Senior Director, Government and Regulatory Affairs, to be responsible for overseeing Lockheed Martin's actions pursuant to this section of the Consent Decree.

15. The Bureau agrees that, in the absence of new material evidence, it will not entertain or institute, or use the facts developed in the Enforcement Proceeding and Investigation or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion, or recommend to the full Commission any forfeiture or other sanction, against Lockheed Martin for any alleged violation of the Act or the Rules with respect to the operation of earth station E970322 facilities prior to the Effective Date of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Enforcement Proceeding and Investigation through the effective date to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action against Lockheed Martin with respect to Lockheed Martin's basic qualifications to hold Commission licenses or authorizations. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against Lockheed Martin, in the event of any alleged future misconduct for violation of this Consent Decree or for violation of the Act or the Commission's Rules, consistent with the provisions of this Consent Decree.

16. The Parties agree that each is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Lockheed Martin fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible future enforcement action with respect to such failure to satisfy the condition.

17. The Parties agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

18. Lockheed Martin agrees that it will make a voluntary contribution to the United States Treasury in the amount of twelve thousand dollars (\$12,000.00). The payment will be made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code).

19. Lockheed Martin’s decision to enter into this Consent Decree is expressly contingent upon the Bureau’s issuance of an Adopting Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

20. The Parties waive any and all rights they may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and Adopting Order, provided that the Adopting Order adopts the Consent Decree without change, addition, modification, or deletion.

21. In the event that any court of competent jurisdiction renders this Consent Decree invalid, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

22. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Lockheed Martin nor the Commission shall contest the continuing validity of the Consent Decree or Adopting Order. The Parties agree to comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void or otherwise modify the Consent Decree or the Adopting Order.

23. Lockheed Martin waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

24. This Consent Decree cannot be modified without the advance written consent of all of the Parties.

25. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

By:

Kris Anne Monteith
Chief, Enforcement Bureau

Date

For Lockheed Martin Corporation:

By:

Gerald Musarra
Vice President,
Government & Regulatory Affairs

Date